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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

GOLETA AG PRESERVATION, Plaintiff and Appellant, v. GOLETA WATER DISTRICT, Defendant and Respondent.	2d Civil No. B277227 (Super. Ct. No. 15CV02489) (Santa Barbara County)

Goleta Ag Preservation (Goleta Ag) is an unincorporated association. Its members are farmers who are customers of the Goleta Water District (District). They use untreated and minimally-treated water to irrigate commercial agriculture.

Goleta Ag appeals from the trial court's order denying a petition for writ of mandate that would have directed the District to retroactively reverse its rate structure for 2015 through 2020, and would have invalidated the ordinance that adopted it (Ordinance 2015-4, the ordinance). Goleta Ag contends the District used defective notice procedures to implement new tiered water rates and drought surcharges. It also contends these charges force agricultural customers to subsidize the cost of

urban conservation, in violation of the procedural and substantive requirements of Proposition 218. (Prop. 218, as approved by the voters, Gen. Elec. (Nov. 5, 1996), Cal. Const., article XIII D, § 6, subds. (a)(1) and (b)(3)).[1]

We conclude that Goleta Ag members received timely notice of the proposed charges, they lack standing to challenge notice to others, and the District's rates and drought surcharges for agricultural customers reflect the cost of service attributable to the parcels upon which they are imposed, as required by Article XIII D, section 6, subdivision (b)(3). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Goleta's Water Delivery System

The District provides water service to about 87,000 people in a 29,000 acre region of Santa Barbara County located between the coast and the foothills. The region includes many commercial avocado and lemon orchards. It also includes single and multiple family residential housing; the University of California at Santa Barbara (UCSB); golf courses; and industrial and high-tech commercial water customers in the aerospace, electronic, healthcare, and telecommunications fields.

The District delivers some recycled water for landscape irrigation to institutional customers including UCSB and several golf courses. All other customer needs are met from three sources: (1) surface run-off water from Cachuma Lake; (2) groundwater from the Goleta basin; and (3) imported water from

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[1] Amicus curiae Howard Jarvis Taxpayers Association (the taxpayer amicus) joins Goleta Ag. Supporting the District are amici curiae League of California Cities, California State Association of Counties, California Special Districts Association, and the Association of California Water Agencies (the agency amici).

the state water project.[2] Cachuma is the least expensive of these sources and State Water is the most expensive. In 2015, agricultural customers received water mainly from Cachuma either by gravity-fed conduit (Goleta Water Conduit customers), or through the potable system (Urban Agricultural customers).

Historically, the District met customer needs first by exhausting its Cachuma water entitlements, next with groundwater, and finally with imported State Water if needed. The District met 75 percent of all planned demand with Cachuma water. By 2015, drought conditions made this impossible.

Response to the Drought

In the spring and summer of 2015, when the District proposed the new rate structure, California was in a state of drought emergency. It had suffered the four driest years in California's recorded history. Cachuma water was significantly depleted.

In April 2015, the Governor ordered water use restrictions to achieve a 25 percent reduction in statewide potable urban water use. His executive order states, "The [State] Water [Resources Control] Board shall direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions . . . ." (Executive Order B-29-15, April 1, 2015.)

The District's outreach and rebate programs incentivized conservation. It planned capital improvements that would

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[2] The District uses 270 miles of pipeline, six groundwater wells, a water treatment plant, and eight reservoirs, among other facilities, to deliver water.

increase the groundwater supply with improved pumping and treatment infrastructure.

In the previous year (2014), the District's single-family residents had responded to calls to conserve by decreasing their water use 11 by percent. They used only 66 gallons per day; half the statewide average. Other non-agricultural customers decreased their use by 7 percent in 2014. As a whole, the District's non-agricultural customers decreased their use by 17 percent.

At the same time, agricultural customers increased their use by 15 percent in 2014. Their increased use was due at least in part to a dry summer and a warm winter. As the District's General Manager explained to its board, single-family residential customers "have very little . . . 'body fat' further that they can lose"; and "without widespread reductions in agriculture specifically, we'll run out of Cachuma water, and the Goleta Water Conduit will be out of service."

About 80 percent of the District's customer connections are single-family residential and 10 percent are multi-family residential. About 1 percent are agricultural.

Agriculture accounts for 1 percent of customers but 28 percent of use. As noted, the District's 162 agricultural customers received mainly Cachuma water in 2015, either untreated or minimally treated. Of the 162, 24 can receive only gravity-fed untreated Cachuma water through the conduit. The other 138 are part of the potable system; they receive treated Cachuma water and some groundwater.

District water charges include both a meter charge (a fixed monthly meter service charge) and a commodity charge (a rate charged for each unit of water used). Until 2015, each customer class had a uniform commodity rate.

New Rate Structure

The new rate structure raised meter charges, adopted new commodity rates, and adopted a new drought surcharge. The new rates were designed to increase revenues to cover capital improvement projects, replenish fiscal reserves, and incentivize conservation. To help it design the rates, the District retained a consultant who performed a cost of service analysis. It first determined the District's total costs (or "Total Revenue Requirements"). Next, it functionalized those costs. Then, it allocated the costs to customer classes based on the benefits each class receives for the function.

For example, all classes are allocated some of the costs associated with providing customer service, because they all use customer service, but residential customers are allocated a greater share because they require more customer service.

Similarly, the agricultural classes are not allocated any costs for potability treatment, because even those who receive water through the potable system do not benefit from potability. And they are not allocated any costs associated with State water because they do not receive it. Likewise, the gravity-fed conduit customers are not allocated any pumping costs, whereas the Urban Agricultural customers are allocated a share of those costs for receiving groundwater during shortages.

Tiers

The new commodity rates introduce a tier structure within the single family residential customer class: for single-family residential users, greater consumption triggers a higher rate for each unit of water. The lowest single-family residential rate (Tier 1) is for those who consume 0 to 6 hundred acre feet per year; the next (Tier 2) is for those who consume 7 to 16 hundred acre feet per year; and the highest (Tier 3) is for those who consume 17 or more hundred acre feet per year.

For all other customer classes, uniform commodity rates continue. They are higher, and they continue to increase annually for five years, until new rates will be determined. These annual increases are based on projected cost increases.

The overall result of the new rates is "large savings" for residential users who conserve, and increased water bills for agricultural customers. (See Table 1-4.)

Table 1-4: Proposed Commodity Rates FY 2016-2020

Customer Class	Rate Class/ Tier	Current Rate	July 2015	July 2016	July 2017	July 2018	July 2019
SFR*	Tier 1	$5.27	$4.52	$4.66	$4.85	$5.05	$5.26
SFR*	Tier 2	$5.27	$5.57	$5.74	$5.97	$6.21	$6.46
SFR*	Tier 3	$5.27	$6.12	$6. 31	$6.57	$6.84	$7.12
Urban							
Multi-Family Residential*	Urban	$5.27	$5.25	$5.41	$5.63	$5.86	$6.10
Commercial*	Urban	$5.27	$5.25	$5.41	$5.63	$5.86	$6.10
Institutional*	Urban	$5.27	$5.25	$5.41	$5.63	$5.86	$6.10
Landscape Irrigation*	Urban	$5.27	$5.25	$5.41	$5.63	$5.86	$6.10
Agriculture							
Urban Agriculture		$1.42	$1.80	$1.86	$1.94	$2.02	$2.11
GWC	GWC	$1.30	$1.35	$1.40	$1.46	$1.52	$1.59
Recycled							
Recycled	Recycled	$3.05	$3.26	$3.36	$3.50	$3.64	$3.79

*The current Urban class pays a lower rate for a 12-month rolling average of 4 hcf or less

Drought Surcharge

The new drought surcharge is designed to cover some drought-specific costs and to replace revenue from lost sales as conservation increases. The surcharge is triggered only during drought and the amounts depend on the current level of declared drought emergency. The same dollar amount is imposed as a

surcharge on each unit of water, regardless of customer class and commodity rate. (See Table 1-8.) In other words, the surcharge for agricultural and other customers is a uniform dollar amount.

Table 1-8: Marginal Cost Model Proposed Drought Surcharges

Commodity Rate & Drought Surcharge						
	Base	[----------Drought Surcharge----------]				
Class	Rate	Stage I	Stage II	Stage III	Stage IV	Stage V
SFR						
Tier 1	$4.52	$0.00	$1.57	$2.60	$3.92	$5.73
Tier 2	$5.57	$0.00	$1.57	$2.60	$3.92	$5.73
Tier 3	$6.12	$0.00	$1.57	$2.60	$3.92	$5.73
Urban						
MFR	$5.25	$0.00	$1.57	$2.60	$3.92	$5.73
Commercial	$5.25	$0.00	$1.57	$2.60	$3.92	$5.73
Institutional	$5.25	$0.00	$1.57	$2.60	$3.92	$5.73
Landscape Irrigation	$5.25	$0.00	$1.57	$2.60	$3.92	$5.73
Agriculture						
Urban Agriculture	$1.80	$0.00	$1.57	$2.60	$3.92	$5.73
Goleta West Conduit	$1.35	$0.00	$1.57	$2.60	$3.92	$5.73

The District's consultant offered an alternative option under which the surcharge would have been a percentage of the commodity rate. Thus the surcharge would have varied depending on the customer's class and tier (the Roseville option). The District rejected the Roseville percentage option. It would have resulted in much lower surcharges for agricultural customers because of their low commodity rates. The District's consultant cautioned that it would have, "[m]aintain[ed] more affordable agricultural water in highest stages which may reduce conservation."

Adopting the New Rate Structure

The District chose to pursue the proposed rate structure after public hearings in the spring of 2014. It made a draft cost of service analysis available to the public at its April 15 hearing.

Five days later, our colleagues in the Fourth District concluded that Article XIII D requires that any tiered rates must reflect the "actual cost of providing water at those tiered levels," and that the conservation mandate of Article X, section 2, does not excuse compliance. (*Capistrano Taxpayers Assn., Inc. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, 1506 (*Capistrano*).)

The District's counsel and expert had anticipated the *Capistrano* decision. At the April 15 hearing, counsel advised the Board that, "what's likely to happen is the [*Capistrano*] court is going to raise the bar for the tightness of the fit between the tier prices and the economic rationale for those prices. But my sense is that the tightness that's required is consistent with the complexity of the report you received this evening."

Once it selected the new rate structure, the District set a public protest hearing for June 2015. It mailed notice to customers more than 45 days before the hearing. The District acknowledges that it did not mail notice to any non-customer property owners.

The notices identified the proposed rates, the basis for them, and the date, time and place of the public protest hearing. It specified the 2015 commodity rate for each class and tier, and then explained that these rates would increase annually by a percentage formula.

Several days before the hearing, the District published a revised cost of service analysis and made it available on its website. The revision increased the District's estimate of capital costs. It also re-calculated the annual commodity rate increases.

At the public hearing in June, the District received only 79 protests. Counsel for Goleta Ag was among those who protested in writing and she spoke in opposition to the proposed rates at

the hearing. The Board voted unanimously to approve the ordinance adopting the proposed rate structure.

DISCUSSION

Proposition 218 (Article XIII D)

The California Constitution, as amended by a series of voter initiatives, limits the authority of state and local governments to collect revenue. (Cal. Const., arts. XIII A, XIII C, XIII D.) Article XIII D, added by Proposition 218 in 1996, applies to charges for specific services imposed "as an incident of property ownership," including a "charge for a property related service." (Cal. Const., art. XIII D, § 2, subds. (e), (h).)

Ongoing water delivery is a "property-related service" within the meaning of Proposition 218. (*Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, 217.) "[O]nce a property owner or resident has paid the connection charges and has become a customer of a public water agency, all charges for water delivery incurred thereafter are charges for a property-related service, whether the charge is calculated on the basis of consumption or is imposed as a fixed monthly fee." (*Ibid.*)[3]

Any charge for property related services must comply with Proposition 218's substantive and procedural requirements. The burden is on the agency to demonstrate compliance with both. (Cal. Const., art. XIII D, § 6, subd. (b)(5).)

Substantively, the charge must not exceed the cost of providing service. Specifically, (1) the total revenues derived

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[3] Because the District complied with Proposition 218, we do not reach its argument that, unlike domestic water service, agricultural water service is not governed by Proposition 218 because it is based on voluntary use, making the charges subject only to the less stringent requirements of Proposition 26. (*see Pajaro Valley Water Management Agency v. Amrhein* (2007) 150 Cal.App.4th 1364, 1389-1390.)

from the charge may not exceed the cost of service, and (2) the charge imposed on each parcel may "not exceed the proportional cost of the service [that is] attributable to the parcel" on which the charge is imposed. (Cal. Const., art. XIII D, §§ 2, subd. (e) and 6, subd. (b)(3).) The cost of service includes all short- and long-term costs, including operation, maintenance, financial, and capital expenditures. (*Howard Jarvis Taxpayers Assn. v. City of Roseville* (2002) 97 Cal.App.4th 637, 647-648.)

Procedurally, the agency must identify "the parcels" upon which a charge will be imposed and provide written notice by mail "to the record owner" of each parcel 45 days before a public hearing on the proposed charge. (Cal. Const., art. XIII, § 6, subds. (a)(1) and (a)(2).) The notice must include the amount of the proposed charge, the "basis upon which [it] was calculated," (*id.*, subd. (a)(1)) the reason for it, and the time and place of the hearing. If a "majority of owners of the identified parcels" present written protests, the agency may not impose the charge. (*Id.*, subd. (a)(2).) Unless the charge is for water, sewer, or refuse collection, it also requires voter approval. (*Id.*, subd. (c).)

Standard of Review

Because compliance is a pure constitutional question, we exercise independent review. (*Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, 448-449 (*Silicon Valley*).) "Both trial and reviewing courts are to apply an independent review standard, not the traditional, deferential standards *usually* applicable in challenges to governmental action." (*Capistrano*, *supra*, 235 Cal.App.4th at p. 1507.) "We exercise our independent judgment in reviewing whether the District's rate increases violated section 6." (*Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892, 912.) But we "do not take new evidence or decide disputed

issues of fact." (*Ibid.*)[4] And we afford agencies a reasonable degree of flexibility to apportion costs. (*Moore v. City of Lemon Grove* (2015) 237 Cal.App.4th 363, 368.) The provisions of Proposition 218 must be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent. (*Jacks v. City of Santa Barbara* (2017) 3 Cal.5th 248, 267.)

Procedural Compliance

Goleta Ag contends the District did not comply with the notice provisions of Proposition 218 because (1) it did not send notice to all "record owners" and (2) the final cost of service analysis was not published 45 days before the hearing.

As noted, Proposition 218 requires the District to "mail" notice to "record owner[s]." (Cal. Const., art. XIII, § 6, subd. (a)(1).) The District mailed notice to "customers."[5] There is no evidence (and the District does not contend) that it consulted the assessment role to ensure that all record owners' addresses were the same as the customer billing addresses, or that it otherwise ensured that all notices went to record owners rather than their tenants.

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[4] We do not reach amicus' argument that a court may consider extra-record evidence of compliance with Proposition 218's notice requirements, because Goleta Ag does not have standing to challenge notice and no such evidence is offered.

[5] District records state: "Staff subsequently mailed a Notice of Public Hearing (Notice) to all District customers of record as of March 31, 2015, all service addresses without an active account, and 15 test mailings to the District office and the PO Box established for customers to mail protests." (Board of Directors Agenda Letter, June 16, 2015.)

The District and agency amici contend that a clarifying statute relieves the District of its constitutional burden to mail notice to "record owner[s]" if it does not impose liens. (Cal. Const., art. XIII D, § 6, subd. (a)(1); Gov. Code, § 53755, subd. (a)(1) ["The notice required by [Proposition 218] may be given by including it in the agency's regular billing statement"]; and (a)(3) ["If the agency desires to preserve . . . a lien on the parcel," it shall also mail notice to the recordowner's address as provided in the assessment roll, if different from the billing address]; *Greene v. Marin County Flood Control & Water Conservation Dist.* (2010) 49 Cal.4th 277, 290-291, [In "'cases of ambiguity,'" courts may consult the Legislature's contemporaneous construction of a constitutional provision and legislative judgment enjoys weight and deference].) The agencies also argue that notice to tenant customers gives constructive notice to their landlords, and landlords are in a position to impose lease terms that require tenants to notify them of proposed rate increases.

In response, Goleta Ag and the taxpayer amicus contend the constitution unambiguously mandates notice to "record owners" and the Legislature may not relieve agencies of a requirement the electorate imposed on it to make it more difficult to increase rates without voter consent. (*Hotel Employees & Restaurant Employees Internat. Union v. Davis* (1999) 21 Cal.4th 585, 602 ["A statute inconsistent with the California Constitution is, of course, void"]; *Silicon Valley*, *supra*, 44 Cal.4th at pp. 444, 448 ["the plain meaning governs," and legislation must not """narrow or embarrass""" a constitutional provision]; *Griffith v. Pajaro Valley Water Management Agency* (2013) 220 Cal.App.4th 586, 596 (*Griffith*) ["Proposition 218 requires that notice of the protest hearing be sent to record owners, not tenants or customers"]; *Ballot Pamp.*, *Gen. Elec.* (Nov. 5, 1996) text of Prop. 218, s 2, p. 108 ["This measure protects taxpayers by limiting the

methods by which local governments exact revenue from taxpayers without their consent"].)

We do not resolve the issue because Goleta Ag lacks standing to challenge notice to record owners who are not customers. Goleta Ag's petition alleges that all its members "are customers" of the District. It is undisputed that the District mailed notice to all customers.

Goleta Ag also challenges notice on the ground that the District's final cost of service analysis was not made available 45 days before the hearing. The final version estimates capital project expenses to be higher: from $27.4 million over five years in the draft to $32.5 million in the final version. Also, it calculates the commodity rates to be somewhat higher after the first year than did the draft analysis.[6]

Nothing in Proposition 218 required notice of the cost of service analysis 45 days before the hearing. An agency's written notice must include the proposed fee or charge; the amount proposed; "the basis upon which the amount of the proposed fee or charge was calculated"; the "reason for the fee or charge"; and "the date, time, and location of [the] public hearing." (Art. XIII D, § 6, subd. (a)(1).) "[T]he notice requirements of Article XIII D are satisfied if the agency apprises the owner of the proposed rate to be charged." (*Pajaro Valley Water Management Authority v. Amrhein*, *supra*, 150 Cal.App.4th at p. 1388, fn. 15, italics omitted.)

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[6] The draft analysis calculates commodity rates for Urban Agriculture from 2015 to 2010 to be $1.80, $1.84, $1.88, $1.92, and $1.96 whereas the final analysis calculates $1.80, $1.86, $1.94, $2.02, and $2.11. The draft analysis calculates commodity rates for agricultural conduit customer from 2015 to 2020 to be $1.35, $1.38, $1.41, $1.44, and $1.47 whereas the final analysis calculates them to be $1.35, $1.40, $1.46, $1.52, and $1.59.

The District met each of these requirements. Its notice accurately stated the first year commodity rate and the method by which annual increases would be calculated. It did not include the draft capital costs estimates or the draft calculations for annual increases that were revised in the final analysis. And there was no requirement to include the entire cost of service analysis in any form. (*See Morgan v. Imperial Irrigation District*, *supra*, 223 Cal.App.4th at p. 919 ["The fact that Entrix could have modified the Cost of Service Study does not violate section 6 because there is no indication that the study was modified in any way that calls into question the District's compliance with section 6 or otherwise makes either the Cost of Service Study or the written notices of the proposed rate increases invalid"].)

Substantive Compliance

Goleta Ag contends that (1) the drought surcharges are not proportionate to the cost of delivering water; (2) the residential tiered commodity rates do not reflect any corresponding increase in the cost of delivering water in greater volume; and (3) the commodity rates impermissibly include capital costs that are not detailed in the cost of service analysis. Goleta Ag contends these new charges are thus disproportionate to the cost of service and inequitably require agriculture to cross-subsidize residential conservation.

As noted, Proposition 218 requires that, (1) the aggregate revenues derived from a charge for property-related services may not exceed the cost to provide the service, and (2) the charge imposed on any single parcel (or person as an incident or property ownership) may not exceed the "proportional cost of the service attributable to the parcel." (Cal. Const., art. XIII D, § 6, subds. (b)(1) and (b)(3).) Thus, we must consider whether the charges reflect (1) the total costs of water service, (2) proportionally allocated. As the manual used by public water

entities in our region (M-1) acknowledges, "Water rates are considered fair and equitable when each customer class pays the costs allocated to the class and thus cross-class subsidies are avoided."

(i) Flat Rate Drought Surcharges

The stated purpose of the flat rate drought surcharge is to (1) recover costs incurred as a result of drought (conservation programs and supplemental pumping costs); and to (2) recover lost water sales revenue that results from conservation (the District's fixed costs are not reduced during drought, but water sales are).

Goleta Ag contends the District should have adopted the Roseville model (a percentage of the commodity rate) instead of the uniform surcharge. It contends the uniform surcharges do not reflect the actual cost of delivering water to the different customer classes. It argues urban revenues drop during drought while agricultural revenue rises, creating a cross-subsidy. It further argues that specific drought expenditures, such as residential rebates, should not be allocated to agricultural customers who "do not benefit from those conservation programs" and Goleta Water Conduit customers should not be allocated costs of supplemental groundwater pumping because the District is physically incapable of delivering groundwater to them.

Water districts are under a constitutional mandate to conserve water, and the governor has ordered them to set rates to motivate conservation. (Art. X, § 2 [The State's general welfare requires conservation of water resources]; Water Code §§ 375, subd. (b) ["The ordinance or resolution may also encourage water conservation through rate structure design."]; 10631, subd. (e)(1)(C)(iii) [conservation pricing].) But these mandates do not excuse compliance with Proposition 218. (*Capistrano*, *supra*, 235 Cal.App.4th, at pp. 1514-1515; *City of Palmdale v. Palmdale*

Water District (2011) 198 Cal.App.4th 926, 936-937 ["article X, section 2 is not at odds with article XIII D so long as . . . conservation is attained in a manner that 'shall not exceed the proportional cost of the service attributable to that parcel'"].)

We agree with the trial court that "Proposition 218 is not offended by making all customers pay a surcharge at a uniform rate that reflects the cost of the dwindling supply of water system-wide." The surcharge takes the total cost of drought shortages and allocates it based on water consumption. It is thus directly correlated to the system-wide cost of meeting the drought, a benefit that is common to all customers. Without system-wide conservation in times of drought, all Goleta customers could face outright bans on agricultural irrigation. (See Water Code § 106 ["use of water for domestic purposes is the highest use of water and the next highest use is for irrigation"].) The uniform surcharge results in higher volume users bearing a proportionately greater share of the costs that are essential to system-wide conservation.

The District's three sources of water are part of a system of scarce water that must be preserved for the common benefit of all. A water district may adopt rates in order to encourage conservation, so long as those rates do not exceed the proportional cost of service of a parcel. (Cal. Const., art. XIII D, § 6, subds. (b)(1), (b)(2) and (b)(3).) In times of water scarcity, the cost of service attributable to one parcel may include delivery to another within the system if that delivery creates a common benefit. (*Griffith*, *supra*, 220 CalApp.4th at pp. 599-600; *Capistrano*, *supra*, 235 Cal.App.4th at p. 1502.) In *Capistrano*, all customers could be required to fund the cost of recycled water supplied to only some because recycling the water created a common benefit to the entire system. (*Capistrano* at 1502 ["Nonpotable water for some customers frees up potable water for

others."].) In *Griffith*, all users of a groundwater basin could be charged for the cost of delivering water from other sources to only the coastal users, because the deliveries reduced the amount of groundwater the coastal users would extract from their own wells, thereby decreasing saltwater intrusion for the entire groundwater basin. (*Griffith* at pp. 590-591, 600.)

Here too, the District delivers water from three distinct sources, but they are interdependent with respect to drought. If the depleted Cachuma source is to continue to feed the conduit at all, more customers must use groundwater and all customers must conserve. If single-family residential customers do not conserve, there will be no water for agriculture. Likewise, if agriculture does not conserve there will be insufficient water for public health and hygiene.

"[T]here is nothing at all in . . . Proposition 218 that prevents water agencies from passing on the incrementally higher costs of expensive water to incrementally higher users." (*Capistrano*, *supra*, 235 Cal.App.4th at 1510-1511.) We recognize the severe impact these rates have on agriculture in times of drought. On the other hand, the record demonstrates that agricultural use has a disproportionate effect on the District's scarce water supply. The district has equitably apportioned to it the costs of lost revenues arising from conservation from which agriculture benefits, and it does so in direct proportion to the volume it uses. The drought surcharge therefore satisfies Proposition 218's proportionality component.

Whether or not the Roseville method would have also satisfied Proposition 218 is immaterial. We defer to the agency if its rates satisfy the constitutional requirements. (*Griffith*, *supra*, 220 Cal.App.4th at 601 ["That there may be other methods favored by plaintiffs does not render defendant's method unconstitutional"].)

(ii) Tiers for Single-Family Residential Customers

Goleta Ag contends the District's residential tier structure is not based on the cost of actually providing service at different levels. Instead, it argues, the tiers emphasize "pricing signals" to motivate conservation and these signals do not correspond to the cost of delivering water. A water agency must "try to calculate the cost of actually providing water at its various tier levels." (*Capistrano*, *supra*, 235 Cal.App.4th at pp. 1497-1498.) "[T]iers must . . . correspond to the actual cost of providing service at a given level of usage." (*Ibid.*) But Goleta Ag's members are only impacted by the allocation of costs to the single-family residential class as a whole, not by allocation among tiers within the class.

The trial court found, and we agree, that Goleta Ag does not have standing to challenge residential rates because its members do not pay them. We also conclude that the trial court properly exercised its discretion not to confer public interest standing. (*Reynolds v. City of Calistoga* (2014) 223 Cal.App.4th 865, 874.)

Goleta Ag represents only one percent of District customers and its interests differ greatly from those of other customer classes. The parties who successfully challenged tiered rates in the cities of Palmdale and Capistrano were in a tiered class. (*City of Palmdale v. Palmdale Water Dist.*, supra,198 Cal.App.4th at p. 930; *Capistrano*, *supra*, 235 Cal.App.4th at pp. 1499, 1501.) Goleta Ag is not. Moreover, Goleta residents had the means to challenge the rates on their own behalf and chose not to do so. (*Department of Consumer Affairs v. Superior Court* (2016) 245 Cal.App.4th 256, 263 [no public interest standing where unrepresented class has available other remedies].)

(iii) Commodity Rates

Goleta Ag challenges the commodity rates allocated to classes as a whole on the grounds that the District did not

identify all of the costs of providing water service to the District. Specifically, it contends the cost of service analysis identified about $5.8 million in capital improvement costs for 2016, but did not describe in detail what projects it planned. The record demonstrates otherwise.

The cost of service analysis adequately identifies the District's costs. To determine capital costs, the analysis relied on the District's 2014-2015 adopted budget and then projected its costs and revenues for 2016-2020. It estimated capital improvement costs for the five-year period to be $32.5 million, and planned to pay-as-you-go rather than incurring debt. This resulted in a 2016 capital improvement expense about $5.8 million. The District identified all the planned capital improvement projects in a table, including groundwater pumping improvements and repairs and improvements to the Corona del Mar water treatment facility which treats Cachuma and State water. The District adequately identified all of the costs of delivering water service.

DISPOSITION

The order appealed from is affirmed. Respondent shall recover its costs.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P. J. YEGAN, J.

Thomas P. Anderle, Judge
Superior Court County of Santa Barbara

Brownstein Hyatt Farber Schreck, Susan F. Petrovich, Mitchell J. Langberg, and Jonathan C. Sandler, for Plaintiff and Appellant.

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